

Amendment No. 1 to HB3402

**Fitzhugh
Signature of Sponsor**

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 3120*

House Bill No. 3402

by deleting from subdivision (6) of Section 2 of the introduced bill the second sentence.

AND FURTHER AMEND by adding the following language as a new appropriately designated subdivision to Section 2:

() Tipped employees has the same meaning as the term is defined by 29 U. S.

C. §203(t) who are exempt to the extent provided in 29 C.F.R. §531.

AND FURTHER AMEND by inserting the following new section immediately preceding Section 11 of the introduced bill and renumbering the subsequent sections accordingly:

SECTION __. The following employees are exempt from the provisions of this act:

(1) Employees employed in agriculture or by their families who are exempt pursuant to 29 U.S.C. §213(a)(6), (b)(12), (13), (15) and (16), (c)(1) and (2), (h) and (j), and 29 U.S.C. §214(b)(2);

(2) Nursery workers as defined in §43-6-102; and

(3) Students in higher education who are exempt pursuant to 29 U.S.C.

§214(b)(3)

AND FURTHER AMEND by deleting Section 3 in its entirety and by substituting instead the following language:

SECTION 3.

(a) Except for tipped employees in accordance with subsection (b), every employer shall pay to each employee wages at a rate not less than six dollars fifteen cents (\$6.15) per hour.

(b) Every employer shall pay a cash wage of at least three dollars thirteen cents (\$3.13) per hour to tipped employees if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least three dollars thirteen cents (\$3.13) per hour do not equal the minimum hourly wage

of six dollars and fifteen cents (\$6.15) in accordance with this act, the employer must make up the difference. The employer who elects to use the tip credit provision must inform the employee in advance and must be able to show that the employee receives at least the minimum wage of six dollars and fifteen cents (\$6.15) when direct wages and the tip credit allowance are combined. In addition employees must retain all of their tips, except to the extent that they participate in a valid tip pooling or sharing arrangement.